THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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W.P.No. 17012 of 2005

Dated: August 4, 2005

Between:

P. Prakash, S/o. Balraj, 60 years,

R/o. 3-96, Sumithra Nagar, Kukatpally,

Balanagar Mandal, Ranga Reddy district.

…Petitioner

and

Government of Andhra Pradesh,

Rep.by its Prl. Secretary to Government,

Social Welfare (CV.I) Department,

A.P. Secretariat, Hyderabad & 3 others.

…Respondents

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O R D E R:

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This Writ Petition is filed by the petitioner aggrieved by the order passed by the 1st respondent dated 06.07.2005 under which the appeal filed by the petitioner under Sec.7(2) Andhra Pradesh (SC, ST & BC) Regulation of Issue of Community Certificates Act, 1993 (hereinafter referred to as 'the Act') was dismissed.

2. The grievance of the petitioner is that the impugned order was passed without giving any notice or opportunity of being heard. It is stated that the petitioner filed appeal against the order of the 2nd respondent, where the 2nd respondent passed

orders cancelling the certificate as to the social status of the petitioner. The grievance of the petitioner is that when the appeal was pending, though the petitioner received a notice by way of telegram, dated 19.04.2005, which was issued even to the petitioner's counsel, fixing up the date of hearing by postponing from 25.4.2005 to 16.05.2005. But according to the petitioner, his counsel appeared on 16.05.2005 and none was available in the Chambers of the Hon'ble Minister for Social Welfare. Therefore, the petitioner's counsel returned. However, thereafter though there was no notice, but the impugned order was passed.

3. At the time of hearing, this Court directed the learned Government Pleader to get instructions. On instructions, the learned Government Pleader produced the file stating that though the appeal was fixed for hearing on 16.05.2005, the matter was adjourned to 19.05.2005, and while adjourning the matter telegram was issued to the petitioner. But, however, the petitioner did not appear on 19.05.2005. Therefore, the appeal was decided ex parte.

4. The learned counsel for the petitioner contends that the petitioner did not receive any notice either by telegram or even otherwise postponing the date of hearing. In fact, the learned counsel contended that when the matter was adjourned from 25.04.2005 to 16.5.2005, the telegram which was addressed to the petitioner was also issued to the counsel for the petitioner. But, while claiming that notice was issued to the petitioner on 16.05.2005 while postponing the hearing to 19.5.2005 to the petitioner, no copy was marked to the counsel, especially when the petitioner is being represented by the counsel, and when the counsel was even served with a notice of hearing on an earlier occasion. Therefore, the learned counsel for the petitioner sought for setting aside the impugned order, as the appeal was decided without issuing proper notice and opportunity of hearing.

5. Heard the learned counsel for the petitioner and the learned Government Pleader and considered the material on record.

6. From the records it is very clear that when a telegram was issued on 19.04.2005 postponing the date of hearing from 25.04.2005 to 16.05.2005 a copy of the telegram was even sent to the counsel for the petitioner, but when the matter was adjourned

from 16.05.2005 to 19.5.2005 though it was claimed that notice was given to the petitioner by way of telegram, no copy was marked to the petitioner's counsel, and, in fact, the petitioner also claims that he did not receive any notice, as allegedly sent by the respondents. In fact, no proof of service was filed nor the record produced before this Court shows such proof of service of notice either on the petitioner or on his counsel. In the absence of any proof of service of notice, especially when there is no mention about marking a copy of the said notice to the counsel appearing for the petitioner, the claim of the petitioner is to be accepted that no notice was served on the petitioner and consequently the petitioner was deprived of his right of opportunity to represent his case. On that simple ground of violation of principles of natural justice, the impugned order passed by the 1st respondent dated 07.06.2005 is set aside with a direction to the 1st respondent to re-hear the matter afresh after giving a notice and opportunity to the petitioner and pass appropriate orders on merits.

6. Accordingly, the impugned order is set aside, and the matter is restored to the file of the 1st respondent for hearing afresh by giving a notice to the petitioner and to his counsels.

7. The Writ Petition is accordingly disposed of. No costs.

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S.Ananda Reddy, J.

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